UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1993/SR.10
17 August 1993

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-fifth session

SUMMARY RECORD OF THE 10th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 10 August 1993, at 10 a.m.

Chairman: Mr. AL-KHASAWNEH

CONTENTS

Contemporary forms of slavery (continued)

Promotion, protection and restoration of human rights at national, regional and international levels (continued)

(a) Prevention of discrimination and protection of children: human rights and youth (continued)

(b) Prevention of discrimination and protection of women (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.93-14563 (E)

CONTENTS (continued)

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII)

The meeting was called to order at 10.15 a.m.

CONTEMPORARY FORMS OF SLAVERY (agenda item 15) (continued)
(E/CN.4/Sub.2/1993/30, 31 and Add.1, and 32)

PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS (agenda item 16) (continued)

(a) PREVENTION OF DISCRIMINATION AND PROTECTION OF CHILDREN: HUMAN RIGHTS AND YOUTH (continued)

(b) PREVENTION OF DISCRIMINATION AND PROTECTION OF WOMEN (continued)
(E/CN.4/Sub.2/1993/33)

1. Ms. KING (Indigenous World Association) said that as an arts educator, she represented the rights of youth to education, particularly in the fields of art and the humanities. By the passing down of culture through education, petroglyphs, poets and oral historians recalled the past while visual artists, performers, potters, weavers and cinematographers documented the present. Historically, in indigenous cultures, education and culture were passed down to the young through art mediums which were inexorably linked to spirituality, cultural heritage and the quality of day-to-day life.

2. However, young artists could no longer be educated in that way because of the development of a Eurocentric aesthetic which devalued their work economically by categorizing it as handicrafts while at the same time placing a high economic value on their sacred artefacts. The acquisition of indigenous artefacts had become a high priority for Western and Eastern collectors, leading to desecration of spiritual sites and robbing of graves in response to market demand. In terms of education, such desecration deprived artists of their teaching tools and spirit. The Hopi nation, for example, was no longer able to participate or teach ritual rites of passage to their young because their sacred items had been removed.

3. Ironically, while devaluing indigenous art as handicraft and functional art, the United States Government hypocritically tried to establish traditional arts and crafts as a viable economic base in indigenous communities. The stereotyping of indigenous art solely on traditional ethnic methods, impeded young contemporary artists and, once trained, their work had very little economic value or cultural respect.

4. In terms of government-directed formal educational systems, the production of art was considered a luxury and accordingly, in an economic crisis, it was the first item dropped from the curriculum. The development of the talent and inspiration for the next several generations was thus stopped while the development of new, critical cultural functions, such as art therapy was halted.

5. In contemporary times, it was a cultural necessity to use art as an educational tool in the struggle for human rights and cultural equity. Artists personalized the face of oppression, as had been demonstrated by Peter Magubane's photographs in South Africa and by the works of thousands of anonymous artists worldwide. Young cultural art workers in South Africa had

accepted the enormous challenge of being a primary vehicle for voter education in a brilliantly devised campaign using both traditional and contemporary art forms in theatre, music, literature and graphic arts. Professional artists, art educators and students of the arts had always been an irrepressible force in the struggle for human rights. It was through the universal kinship of artists that contemporary tribalism was being challenged and changed.

6. Mrs. PARKER (International Educational Development) said that in December 1992 her organization had undertaken a mission to Japan to investigate the situation of Japan's slavery victims during the Second World War. Its report, Compensation for Japan's World War II Victims, had been presented to the Working Group on Contemporary Forms of Slavery.

7. The report documented the facts regarding sex slaves, prisoners of war, civilian internees and forced labourers and had provided the direct testimony of many victims. It had also demonstrated that the acts committed by Japan were violations of then-existing customary international law. The report had also concluded that the underlying jus cogens status of the prohibitions against rape, other forms of torture and against all forms of slavery as well as the provisions in the 1907 Hague Convention definitively established the right to compensation for those victims.

8. Japan had argued that its treaty with the Allied Powers and its separate treaty with the Republic of Korea had settled all claims. In the view of her organization, no Government might abrogate jus cogens norms. If a Government wished to settle claims of victims of jus cogens violations by a treaty, the treaty must actually provide a scheme for adequate remedies for victims. It was absurd for Japan to argue settlement in those treaties because compensation for victims of sexual slavery had not been addressed in either of the treaties or in their travaux préparatoires. Article 53 of the Vienna Convention on the Law of Treaties provided that treaties which claimed to abrogate responsibilities for war crimes were void.

9. Her organization's report had made a number of recommendations, including a comprehensive scheme for settling claims. It had also requested the Working Group to invite the Sub-Commission Special Rapporteur on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms to take up the issue and was pleased that the Working Group had included its recommendation in its report.

10. Her organization considered that the additional fact-finding advocated by the Republic of Korea was unnecessary. The facts had been proved beyond all reasonable doubt; Professor Yoshimi had found Japanese Government documents describing the whole sex slave scheme while additional supporting documents had been discovered in the archives of the United States. The testimony of many victims had also been compelling. Finally, on 4 August 1993, the Government of Japan had conceded publicly the role of Japan, including the fact that the sex slaves had been coerced. Other factors supported emphasis on speedy compensation. Many of the victims were elderly and badly in need of assistance.

11. Germany had had a comprehensive compensation scheme in place for many years and had willingly paid out hundreds of millions of dollars in claims. Japan should also rehabilitate its national honour and commitment to the principles of international law by paying similar compensation.

12. Her organization welcomed the establishment of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery and the appointment of its Board of Trustees, but regretted that the meagre resources available had severely impaired the Fund's ability to carry out its mandate. International Educational Development strongly endorsed the decision of the Board of Trustees to give priority in future to individuals and groups who would otherwise be unable to attend sessions of the Working Group. Because the Working Group was the only body in the United Nations human rights system which addressed slavery, her organization hoped that the situation of the Fund would improve as soon as possible. In the meantime, it appealed to non-governmental organizations to include victims, who would otherwise be unable to attend Working Group sessions, as part of their regular delegations. It also encouraged Governments and others that had not yet done so to make a meaningful contribution to the Fund.

13. Mrs. MATYEEVA (International Educational Development) said that her organization supported all United Nations activities for the prevention of discrimination against children and women and for the protection of their human rights. It also approved of the tradition of including questions on the situation of women and children throughout the world on the agenda of the Sub-Commission. The reports of the special rapporteurs were of definite value for the development of national policies on critical problems affecting women and children. In that connection, her organization supported the request addressed to Commission and Sub-Commission special rapporteurs and working groups in paragraph 2 of resolution 1993/46 of the Commission on Human Rights. Her organization strongly supported the views expressed by many participants in the World Conference on Human Rights about the failure of so many States to accede to important international instruments such as the Convention on the Rights of the Child. It also supported the appeal contained in the Vienna Declaration and Plan of Action for universal ratification of the Convention by the end of 1995 and for its full implementation.

14. Humanity could not remain indifferent to the murder of street children in Brazil. The question also arose as to whether the activities of criminal groups vis-à-vis children were growing in other countries. It would seem that in many parts of the world, women and children were becoming the victims of immorality and criminality on an ever-increasing scale.

15. Her organization had participated in the international project on AIDS and had listened to the controversial discussions on the large-scale use of the drug AZT, especially on children as a treatment against AIDS and to the reports of ethical violations and violations of the human rights of children by doctors and pharmaceutical experts.

16. International Educational Development was deeply distressed by the situation of women and children in the families of emigrants from the former Soviet Union. Research conducted by UNICEF and other organizations had disclosed hitherto unknown problems such as the sale of children under the

pretext of international adoption. She believed that legislation before the Russian Parliament, together with active measures taken by other Eastern European countries and the assistance of the international community would put a stop to that new violation of the rights of children. That situation and many others called for continued monitoring by the United Nations; the Sub-Commission had an important role to play in that respect.

17. Mrs. GRAF (International League for the Rights and Liberation of Peoples) said that much had been accomplished regarding the definition of human rights but similar progress had not been made in the development of protective mechanisms. Many States which had adhered to international human rights instruments had failed to implement them in practice. A case in point was that of Colombia which, in 1991, had introduced a new Constitution which was replete with a full range of human rights set out in over 100 articles.

18. Two developments however nullified the effects of those articles. The Military Penal Code continued to apply in the case of crimes against humanity while there were continuing efforts to limit the remedies of habeas corpus and amparo. Citizens thus remained defenceless against the repressive power of the State.

19. In recent years grave and persistent violations of human rights, including crimes which Mr. Chernichenko, in his report (E/CN.4/Sub.2/1993/10), had categorized as international crimes, had continued to take place not only in Colombia but also in Peru and Guatemala.

20. No progress had been made at the World Conference on Human Rights in improving protective mechanisms, but that did not mean that alternative means for coping with grave violations of human rights should not be explored. If United Nations bodies such as the Commission on Human Rights and the Sub-Commission did not take adequate measures to confront the serious crisis in many parts of the world, the human rights situation would deteriorate further into a state of anarchy and despair.

21. Her organization therefore proposed the creation of a commission on crimes against humanity which would produce reports on countries where glaring and massive violations of human rights took place and which would be made available to special rapporteurs and working groups.

22. The functions of the commission would include: the investigation of recent crimes against humanity; the submission of reports on the results of investigations to the competent authorities with a view to the development of appropriate penal, administrative and political sanctions; public dissemination of the results and conclusions of its investigations; recommendations regarding legal measures to be adopted by the States concerned; and identification of measures which the United Nations could take in cases of persistent violations or non-cooperation by the States concerned.

23. Mrs. KSENTINI said that she wished to congratulate Mr. Maxim on the results achieved by the Working Group on Contemporary Forms of Slavery at its eighteenth session despite the difficulties encountered regarding the attendance of members.

24. In recent years, the Working Group had considered a number of very serious and extensive phenomena which had taken different forms in different parts of the world and called for decisive action, inter alia, by the Sub-Commission. The Working Group had singled out a number of problems requiring urgent action, notably the exploitation of child labour, the sale and prostitution of children and pornography involving children. The last-mentioned aspects were particularly distressing and had led the Working Group in addition to its Programme of Action to propose the nomination of a special rapporteur, on the sale of children, child prostitution and child pornography. The Commission had acted on that recommendation and appointed Mr. Muntarbhorn. A positive element of the work of the eighteenth session had been the presence of Mr. Muntarbhorn at the meetings of the Working Group. The cooperation between the Special Rapporteur and the Working Group was vital and should be enhanced. The Working Group had proposed the appointment partly with a view to securing greater in-depth investigation of reports and testimony submitted to it, as it did not itself have the resources to go more deeply into different sources of information and to confirm or deny the facts submitted on violations. It was important that the Special Rapporteur who had that capacity should be able to cooperate with the Working Group.

25. As an example of the Working Group's inability to carry out such investigations, she cited the example of allegations submitted each session concerning organ transplants. The Working Group itself had no choice but to ask other bodies, such as WHO and INTERPOL, to try to shed light on them.

26. The fact that it was impossible for the Working Group to establish the facts itself raised the general question of its mandate, organization and methods of work. The Working Group could not request the appointment of a special rapporteur for each aspect of its mandate and whose study might reveal large-scale violations of human rights. Over the years a variety of means had been explored to enhance the Working Group's ability to carry out its mandate, including the lengthening of its sessions; such devices had not however proved adequate, given the major issues with which it had to deal.

27. She wished to stress that the Working Group was not simply mandated to follow up reports submitted voluntarily by parties to the conventions against slavery and prostitution. In effect, the Group was receiving less and less information every year from such sources. It must have a much broader mandate so that it could follow and monitor the development of contemporary norms flowing from treaties and the general principles of human rights. Above and beyond the fact that the Working Group was not endowed with the means of investigation generally given to human rights bodies, it was also deprived of the presence of members who would give a certain continuity to its activities. Over the last few years the Working Group had only been able to operate thanks to the devotion of a few members prepared to shoulder an extremely heavy workload.

28. The Sub-Commission must therefore study ways of giving the Working Group a more clear, specific and realistic mandate and the means to carry out its work. In that connection, the Chairman/Rapporteur, Mr. Maxim had made a number of proposals. Clearly the Working Group could not confine itself to listening to testimony and drawing up programmes of action without being able to act; nor could it continue to work solely on the basis of the devotion of a

few members. Nor could it specialize in the rights of the child. She noted that there was a tendency to consider mainly the contemporary forms of slavery relating specifically to children. In that connection, the Working Group should bear in mind that there was a Committee on the Rights of the Child which had been set up specifically to deal with issues affecting children and that it should therefore diversify its activities.

29. Mr. DE SA BARBUDA (Observer for Brazil) said that, as in previous years, Brazil had attended the meetings of the Working Group on Contemporary Forms of Slavery, as an observer and fully supported the recommendation of the Working Group that all Governments should send observers to its meetings.

30. Concerted action and close cooperation between countries, at the regional and international levels, were indispensable to combat the sale of children and prevent their exploitation in prostitution and pornography, since those problems often had transnational characteristics. Brazil believed that the United Nations should adopt an integrated approach, with the Centre for Human Rights acting as a focal point and coordinator to deal with such questions.

31. Almost all participants in the Working Group had emphasized that the abhorrent practices affecting children were fostered by poverty and the inability of the victims to defend themselves. Law enforcement, education in human rights, especially at the primary and secondary levels, campaigns to increase public awareness, special protection for children and legal and psychological assistance to victims or potential victims should form part of the fight against those evils. However, that course of action would not be effective unless it was part of a broader framework which included efforts to promote economic and social development.

32. Brazil had been among the developing countries considered by the Working Group because of the difficulties it was facing in eradicating child labour and certain forms of slavery-like work. Brazil did not lack either adequate legislation or the political will to tackle the problem. However, the impact of the economic crisis together with the burden of external debt had led to an increase in illegal conditions of work, mostly in rural areas, and the use of child labour. Thirty million Brazilians were living in abject poverty. The capacity of the administrative machinery to enforce the law in certain areas of the country had declined. The sheer size of the country, the dispersal of the rural population and the lack of an infrastructure in rural areas made it very difficult to maintain an adequate system of labour inspection.

33. Despite the drawbacks, Brazil was making a serious effort to overcome the problems. In document E/CN.4/Sub.2/1993/31 Brazil had provided detailed information on measures adopted to prevent the sale of children. It had also informed the International Labour Organisation Committee of Experts on the Application of Conventions and Recommendations of measures adopted to implement ILO Forced Labour Conventions (Nos. 29 and 105). All allegations of forced labour, including those which had been transmitted to the Government of Brazil through the ILO, had been investigated and had led to a number of police inquiries and inquiries by the Attorney-General for Labour Matters. Employers found guilty had been fined or imprisoned. The ILO Committee of Experts on the Application of Conventions and Recommendations had stated that the documentation supplied to it showed that determined action had been

undertaken with regard to labour inspection in cooperation with the Public Ministry of Labour and with the support of the Federal Police and that of the police of State Governments with a view to ensuring a more effective implementation of the law.

34. As requested by the Government of Brazil, a representative of ILO had visited Brazil to help develop and improve the rural labour inspection service. Negotiations were under way concerning a technical cooperation agreement between ILO and the Government of Brazil. Brazil was in the process of modernizing its labour inspection service. Vehicles and helicopters had been purchased to strengthen its effectiveness and a training programme for 3,200 inspectors had been set up.

35. Mrs. DAES welcomed the personal contribution made by the Chairman/Rapporteur, Mr. Maxim, to the consideration of the question of slavery in all its forms, reflected in the report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/1993/30), and congratulated the non-governmental organizations on the information they had provided and their active participation in the meetings of the Working Group.

36. She also welcomed Commission on Human Rights decision 1993/112 authorizing the Sub-Commission to consider the possibility of appointing a special rapporteur to update the report of the Special Rapporteur, Mr. Bouhdiba (E/CN.4/Sub.2/479) on the exploitation of child labour. When updating that report the new special rapporteur should also deal with the appalling problem of children in prisons, particularly in adult prisons. Defence for Children International had already done, some years previously, an exploratory study on the question of children in adult prisons. There was reliable information on the inhuman treatment of children in prisons. It had been stated that adult prisons were no place for children. The children that were not either hurt or molested usually left prison twice as hardened as when they arrived, and often fell into a cycle of recidivism. Reliable information which had been received by competent NGOs further confirmed that in certain prisons in which children were imprisoned the human dignity of prisoners was intentionally and systematically violated. Prisoners were beaten and flogged, their labour was exploited, they were not provided with the requisite health care, and disciplinary sanctions were in violation of human rights legislation. Furthermore, penal institutions were not immune to corruption and outside supervision was inadequate.

37. With regard to agenda item 16 (b), she said that statistics, data and information which had been provided by competent organs and bodies of the United Nations system indicated that women's basic rights and fundamental freedoms were violated in times of peace as well as during armed conflicts. Women and their children tended to suffer the most as refugees or displaced persons, immigrants and as victims of starvation, drought, misery, disease and poverty.

38. The status of women in Governments and in the United Nations system left much to be desired. For example, in 1991 in the United Nations Secretariat there were only two women in the post of Under-Secretary-General, and by 1992 only one woman remained at that level. At D-2 level, out of a total of 82 persons, only 11 were women. At D-1 level, 23 out of 248 persons were

women, of which one third were in the Conference Services. There were only 87 women as opposed to 386 men at P-5 level. There were also invisible ceilings for women: 210 women were blocked at P-4 level, 250 at P-3 level and 88 at P-2 level. The question of equal treatment for women staff members had been paid lip service by United Nations agencies, a fact which was directly linked to the overall attitude exhibited by Governments and societies towards women. Recognition of the contribution made by women was also conveniently ignored in all cases.

39. An effort was being made, however, to maintain the momentum on women's issues. The Fourth World Conference on Women was planned for 1995 in China. The main United Nations body preparing the Conference was the Commission on the Status of Women. The Conference would conduct a second review and appraisal of the implementation of the Nairobi Forward-looking Strategies and identify measures to achieve the stated objectives during the last five years of the century.

40. The United Nations, through the General Assembly, was the main instrument for persuading Governments to change their backward-looking policies on women. Very often, traditional cultural practices and beliefs influenced government attitudes towards problems affecting women. The specialized agencies and the United Nations were also the main instruments in assisting women to improve their social, economic and political status; those changes, however, could not be achieved without appropriate government policies. It was important to realize that for women to demand their economic rights, they first of all needed to enjoy the right to make decisions affecting their lives.

41. Each development-oriented agency had made commitments to the cause of women through the implementation of the objectives of the Nairobi Forward-looking Strategies. The main partners of the agencies in the implementation of their programmes were, by and large, women. For example, women were the primary health care providers, teachers and community development agents.

42. According to UNESCO, in 1990 26.5 per cent of the adult population of the world was illiterate. Out of the 948.1 million illiterate persons, 346.5 million were men and 601.6 million were women. That meant that more than two thirds of the world's illiterate population were women. In developing countries, the illiteracy rate of women stood at 45 per cent. In some developing countries, education was considered a privilege for girls and a right for boys. It was also a fact that girls were required to help their mothers in the house which left them no time to devote to their education.

43. The only way of gaining paid employment for them was through education and training. Educated families were aware that education opened up opportunities and they made sure that their children were properly educated. Women controlled both their lives and those of their children through education. The conventional wisdom was that "if you educated a man you educated one person but if you educated a woman you educated an entire family". However, boys still received priority treatment. Equal access to education and training was therefore a basic right which had been denied to women.

44. Since most of the work done by women was in and around the house, the contribution of women to the economic development of society was not usually measured in terms of cash. In most developing countries, housework was automatically linked to work in the farm, and in urban areas to market places.

45. In 1990, out of the 828 million women officially estimated to be economically active, 70 per cent lived in developing regions and 29 per cent lived in the developed world. The statistics did not include much of the agricultural and domestic work performed by women in the developing world. In 1982 the ILO had elaborated a standard definition for the economically active population which included the "production and processing of primary products, whether for the market, for barter or for home consumption".

46. The International Fund for Agricultural Development (IFAD) in its Guidelines for Action for the Economic Advancement of Poor Rural Women had provided a definition of rural women which, besides peasant women of various status, included remunerated workers, petty traders, artisans, industrial homeworkers and domestic servants. The Guidelines for Action had tried to place the issue of the economic advancement of poor rural women high on the political agenda and had recognized that the Nairobi Forward-looking Strategies had not been adequately implemented by Governments, due to a lack of political will.

47. The participation of women in politics, although minute, had increased, at least in the case of the developed countries. In most of those countries, women were aware of their rights and had the opportunity to exercise them. Their votes were sometimes crucial in elections, but rarely had they been used to obtain high-level offices for women in Governments. It was equally rare to find candidates who spoke and acted openly to remove the injustices committed against women. The rising trend of democracy in most developing countries could provide improved opportunities for most of the world's women. The Chairperson of the Commission on the Status of Women had said, with regard to the place of women in the democratization process of society, that there was a need to recognize that democracy did not always lead to the advancement of women but that there could be no democracy without the advancement of women.

48. Economic stagnation, negative growth rates, population increases, growing debt burden and reduction of public expenditure for social programmes had further constrained opportunities for women. The United Nations and the specialized agencies needed to step up their efforts to implement the main goals of the United Nations Decade for Women, namely, equality, development and peace which constituted the cornerstones on which the Nairobi Forward-looking Strategies were based.

49. She fully supported the proposal for the appointment of a special rapporteur on violence against women, including in particular gender-based violence, who should take full account of the work of the Commission on the Status of Women, the outcome of the World Conference on Human Rights and the results of the work carried out pursuant to Commission on Human Rights resolution 1993/8.

50. Mrs. GALVIS (Observer for Colombia) said that the Working Group on Contemporary Forms of Slavery had, over the previous year, done excellent work despite the constraints of time and the diversion of attention towards other events, such as the World Conference on Human Rights. However, the report of the Working Group on Contemporary Forms of Slavery (E/CN.4/Sub.2/1993/30) showed that greater and more concrete efforts needed to be made to protect the human rights of children and to eliminate the exploitation of child labour, slavery, prostitution and pornography.

51. The international human rights system had taken important decisions with regard to the protection of children. The United Nations General Assembly had approved the Convention on the Rights of the Child and a Committee had been set up to monitor its implementation. The Commission on Human Rights had also studied the question and appointed a Special Rapporteur on the sale of children, child prostitution and child pornography, in addition to promoting two Programmes of Action. Similarly, the World Conference on Human Rights had, in its Vienna Declaration, focused at length on the rights of the child.

52. However, the reports and information which emphasized the magnitude of the problems to be resolved, seemed also to show that although protective machinery had been established, for reasons that were not clear, it was not working as efficiently as it should. The reasons for that situation therefore needed to be explored.

53. Firstly, with regard to the Committee on the Rights of the Child, her delegation had no information about the implementation of the Convention or the obstacles to its implementation. Continuous coordination was needed with the various bodies to exchange information which could serve as the basis for determining the measures to be taken. Her delegation was therefore pleased to see that the Special Rapporteur on the sale of children, child prostitution and child pornography had attended the session of the Working Group on Contemporary Forms of Slavery. There was thus the possibility that joint measures could be taken to boost the Programme of Action which came within his mandate.

54. Secondly, the Sub-Commission and the Working Group should always receive copies of the reports published by other bodies responsible for protecting the rights of the child, to keep them abreast of developments; in that way, it would be possible to strengthen activities and make them more effective.

55. Thirdly, it would be appropriate to consider the question of the responses of States. Thus far, few replies had been received, especially in connection with the implementation of the Programme of Action for Prevention of the Sale of Children, Child Prostitution and Child Pornography. She recalled her delegation's observations on previous occasions in relation to the growing number of requests from human rights bodies. States had reached a point of saturation with regard to the requests for information made in many resolutions and in many forums and they were not responding to them. Did that mean that Governments were apathetic about fulfilling their commitments? In most cases, the difficulty lay in compiling and transmitting information, and not necessarily in the will of States to comply with their obligations. The reason was that States were overwhelmed with so many

requests for information and that at the same time the information was not being processed systematically in the Centre for Human Rights or in the various secretariats of international bodies.

56. Fourthly, it would be appropriate to consider the global nature of some of the major phenomena militating against the effective exercise of the human rights of children, as well as the limited scope of the action of the international community. The Working Group had repeatedly examined the problem, but a global strategy had still not been devised for addressing the situation by means of comprehensive programmes to deal with all aspects of the different forms of the exploitation of children.

57. Fifthly, the cooperation with non-governmental organizations should be examined, and especially the need to make available to the competent authorities any information which would enable investigations to be made in order to shed light on violations of the human rights of children. On various occasions, her delegation had made representations to non-governmental organizations which had reported the sale of children's organs in her country to provide the Government with proof to enable it to take action.

58. UNICEF and UNDCP were working with the Government of Colombia on development programmes to help children and educate parents and local communities to try to prevent children from being maltreated, abandoned or exploited. Campaigns had been launched to publicize the rights of children and women and to raise awareness of the responsibility of both society and the State in protecting those rights. The Colombian Family Welfare Institute was carrying out experimental work in four cities, promoting care within the family. The experiment would be assessed and, if the results were positive, the experiment would be extended throughout Colombia.

59. Finally, the most important issue related to the protection of children was often overlooked in human rights forums, namely the question of the family. The family background was at the root of all the problems facing children. The lack of economic, social and cultural protection for the family was the direct cause of the vulnerability of the children. The exploitation of children could not be brought to an end unless development strategies were formulated that focused on the welfare of the family from an economic point of view and in terms of education.

60. The World Conference on Human Rights had emphasized at some length the need to continue working towards recognizing women's rights in all spheres of society, and at the national and international level. It was interesting to see the progress made in international standard-setting vis-à-vis women's rights. However, much work at the practical level remained to be done.

61. As had been stated in Vienna and during the preparatory work before the World Conference, there was a need to address the problem of hidden discrimination against women which manifested itself in day-to-day behaviour and attitudes. The most effective way of changing attitudes was to address the issue of the relationship between men and women in all aspects of their social life, in their relationships, at work and in other social relations.

62. In conclusion, she stressed that international cooperation was essential in order to improve the protection of children throughout the world and achieve recognition of the rights of women. International bodies should, as a matter of priority, include such cooperation in their development programmes.

63. Mrs. FORERO UCROS welcomed the fact that the international community had shown its concern at the situation of children and drawn up a Convention on the Rights of the Child. It was a general instrument which highlighted the responsibility of Governments to families and society as a whole with regard to the protection of children.

64. Consideration needed to be given during the Sub-Commission's debates to the extent to which the prevention and elimination of problems, including the sale of children, could be improved through an action-oriented approach and with the help of international development bodies. There was also a need to examine how cooperation at the international level could be improved, technical assistance provided and international financial resources effectively targeted at problem areas.

65. Failure to satisfy even basic needs was a major impediment to progress in protecting children. Far-reaching action still needed to be taken to solve the root causes of the problems, and to improve living conditions in developing countries so that national programmes could be more effective.

66. Mr. PAK DOK HUN (Observer for the Democratic People's Republic of Korea) said that his delegation attached particular importance to the item under discussion, not only because of the terrible wounds inflicted by Japan during its illegal occupation of Korea, upon the 6 million Koreans - one fourth of the Korean population at the time - used as forced labourers and sex slaves, remained unhealed, but also because various forms of slavery and slavery-like practices were rampant and outside the control of the international community.

67. The eighteenth session of the Working Group on Contemporary Forms of Slavery, in which his delegation had participated, had held fruitful discussions on substantive issues and had issued an admirable report. His delegation wished to express its appreciation to the Working Group of its efforts.

68. The gross violation of human rights committed by Japan in Asian countries in the past had dominated several meetings of the Working Group. As pointed out by many delegations, the sex slavery system and the forcible displacement of over 6 million Koreans by the Japanese Government and the Imperial Army in Asia and the Pacific constituted a crime against humanity from the point of view of international law.

69. His delegation believed that the gravity of such crimes lay in the fact that a powerful country, pursuing its own self-interest, had discriminated against other weaker nations and exploited their women as slaves, and had thus severely damaged the justice and morality of international society and wantonly flouted international laws. Such crimes should have been called to account.

70. The crimes of drafting "comfort women" for the army and displacing 6 million Koreans had not been dealt with either at the international military tribunal established after the Second World War or in any international bodies. Neither had those crimes been taken up in intergovernmental negotiations between Japan and the countries which had become its victims.

71. Many international organizations, including the International Commission of Jurists had therefore sent fact-finding missions to the countries concerned and had prepared interim reports offering undeniable proof of the seriousness of the crimes committed and calling for urgent solutions.

72. The Sub-Commission should take due note of an "apology" which had been issued by the Government of Japan on 4 August 1993. However, as had been commented, the apology was too little too late and did not reveal the true facts of the issue of "comfort women".

73. The Japanese Government had greatly distorted the facts, claiming that many of the facilities had been run by private operators and that the military had only provided assistance at the request of those operators. It thus tries to avoid taking responsibility for the crime against over 200,000 Korean and other Asian women and to describe the crime itself as the actions of individuals who could not be held to account. The Japanese Government had not proposed an adequate solution to the issue of "comfort women" which should include a convincing apology acceptable to all, a full investigation with its findings to be published, and due compensation. The publication by the Japanese Government of an insincere and incomplete document was proof that it did not yet have the will finally to resolve the issue.

74. The Committee for the Investigation of Damage Caused by Japanese Imperialists During their Occupation of Korea had estimated in June 1993 that there had been approximately 200,000 "comfort women". An LDP member of the House of Representatives, Mr. Avahune, had stated in 1965 that 142,000 Korean "comfort women" had been killed by Japanese soldiers. Although his remarks had been recently debated in the Japanese Parliament, the Japanese Government had not clarified them.

75. Almost half a century had elapsed before the Japanese Government had reluctantly admitted and apologized for the direct involvement of the Government and military in the issue of the "comfort women" and it was impossible to predict how many centuries it would take until the Japanese Government admitted to the enormous crime of forcibly displacing over 6 million Koreans and compensated the survivors and bereaved families. It was therefore understandable that the representative of an NGO had suggested in a statement made to the Sub-Commission on 6 August 1993 that a mechanism should be speedily established to resolve the issue since to rely on the court cases in Japan might take up to 10 years.

76. His delegation recommended that the Sub-Commission should take the necessary measures to resolve, in an appropriate manner, the gross violations of human rights by Japan which undermined the justice and morality of international society and flagrantly breached international law, and should

appoint an expert or a special rapporteur to find a just solution to the wartime slavery and slavery-like practices, including the above-mentioned issues.

77. In the meantime, the Japanese Government should not attempt to rid itself of the issue by dealing only with a certain party, but should fulfil its legal and moral responsibilities by making public all the facts on the basis of a full-scale investigation, bringing the perpetrators to justice, expressing a sincere apology that would be acceptable to all and compensating the victims in order to resolve comprehensively the issue of the displacement of Koreans including the issue of "comfort women". Such measures would also be useful for Japan itself.

78. Mr. MOON (Observer for the Republic of Korea) said that his Government had taken note that following an investigation Japan had admitted to coercion in mobilizing, transporting and managing "comfort women" and had expressed its regrets to the victims. However, his Government hoped that the Japanese Government would be able to make further revelations on matters not yet fully clarified by the investigation. Efforts to shed light on the tragedy of the past and to learn from history were extremely important for the development of mankind.

79. His delegation was of the view that the Sub-Commission should pay attention to the matter since violence against women under any circumstances had become one of the most pressing concerns of the international community. In that context, his delegation supported the suggestion to appoint an expert for the purpose of an in-depth, fact-finding study on the issue of "comfort women" and his Government was willing to cooperate with the expert in carrying out his mandate.

80. Mr. DE SA BARBUDA (Observer for Brazil) said that the brutal murder of eight street children on 23 July 1993 in Rio de Janeiro had horrified Brazilian society and the Brazilian authorities. The President of Brazil and the Minister of Justice had taken a personal interest in the case and the federal authorities had been looking at ways of cooperating with the State authorities to ensure the proper and rapid investigation of the crime and the institution of legal proceedings against the perpetrators. Four suspects, including three policemen, had already been charged with murder and the commanding officer had been relieved of his duties.

81. Medium- and long-term measures to address the problem of street children were also being discussed. A public civil inquiry had been opened to determine whether the State and municipal administrations had failed to comply with their obligations according to the Statute of the Child and the Adolescent.

82. The National Council for Children's and Adolescent's Rights (CONANDA), established in December 1992, had held its first extraordinary meeting on 28 July 1993 to express its indignation at the killings and to recommend measures on behalf of children. The Council was chaired by the Minister of Justice and composed of 15 representatives of governmental authorities and

15 representatives of civil society, elected by NGOs. Its mandate covered policy-making and monitoring the actions of the Government with regard to the rights of the child.

83. The recommendations made by CONANDA included the following: the Government at the federal, State and municipal levels should adopt emergency measures fully to implement the Statute of the Child and the Adolescent; the State governors should rapidly implement the commitments made at the meeting of the Children's Pact held in Brasilia on 7 July 1993 to allocate financial resources to programmes for the education, health and special protection of children, and the State and municipal councils on the rights of the child should monitor the implementation of those programmes. The Children's Pact was an initiative that, under the auspices of the United Nations Children's Fund (UNICEF) involved the Government and society in following up the implementation of the Plan of Action for implementing the World Declaration on the Survival, Protection and the Development of Children in the 1990's adopted by the World Summit for Children; the National Congress should, as soon as possible, make decisions on bills to make military police agents liable before civil courts for any crimes they might commit on or off duty.

84. CONANDA was to monitor the procedures of investigation and legal action relating to the recent killings in Rio.

85. The Brazilian Government was well aware that the killing of street children was not a new phenomenon and that certain elements of the police might be implicated in the activities of "death squads". It was determined however not to allow a veil of silence to fall on those crimes. The President of the Republic had made very direct statements on the subject and a serious investigation had been carried out by the National Congress. Several measures had been taken to stop violence and ensure that the criminals did not benefit from impunity, and to protect street children. After an emergency meeting with the National Council for the Defence of Human Rights, on 4 August 1993, the Minister of Justice had decided that the Federal Police would investigate the activities of the "death squad".

86. Brazil had not forgotten that it had made the promotion of children's well-being a priority. In its 1992 report on the state of the world's children UNICEF had acknowledged the efforts made by the Brazilian Government. The 1993 UNICEF Maurice Pate Award had been made to the Government and people of the State of Ceará, one of the poorest States of the Federation, in recognition of the outstanding achievements it had made since 1986 in combating infant mortality, malnutrition and disease.

87. However, it would be simplistic to think that providing shelter and taking the children off the streets would solve their problems. Such measures had not only to respect the rights and actual needs of the children, their families and the community in which they lived but should also be part of a broader pedagogical and protective framework. The most effective way of promoting and defending the rights of the child would be to provide families with sufficient means for caring for them, which meant eradicating the poverty and marginalization that eroded family ties and rendered parents incapable of providing for the basic needs of their children.

88. Development was thus an essential factor in guaranteeing the well-being of children. That assertion should not be interpreted as an excuse. Brazil reiterated the fact that lack of development could not justify violations of human rights and that economic development should benefit first and foremost the individual and should also go hand in hand with social and human development. The international community as a whole must realize that development and the ability to guarantee the full observance and realization of human rights were interrelated and a new action-oriented approach was needed to promote international cooperation in the field of economic, social and cultural rights.

89. Mr. ALFONSO MARTÍNEZ thanked the Working Group on Contemporary Forms of Slavery for its report (E/CN.4/Sub.2/1993/30), which represented a significant achievement in the light of the difficulties it had faced in its eighteenth session. He agreed with previous speakers that there was a need to ensure the permanency and continuity of its members and its work and hoped that when its members were nominated they would take into account the arduous task ahead of them.

90. The problems of contemporary forms of slavery were almost overwhelming and touched upon many vulnerable groups, including children, women and migrant workers. He had misgivings concerning the ability of the Working Group to deal with the huge range of problems contained in the 1994 provisional agenda. It might be advantageous for the Sub-Commission to offer guidance in setting priorities so that the Working Group might discuss the most important and topical forms of slavery.

91. He was disappointed to see that an important topic, namely the follow-up of recommendations adopted at previous sessions (agenda item 4 at the eighteenth session) had not been included as an agenda item in the provisional agenda for 1994. It had enabled the Working Group at its eighteenth session to, for instance, be brought up to date on the implementation of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography.

92. He fully endorsed the conclusions contained in the report under the heading "General considerations" and wished in particular to draw attention to paragraph 92 in which the Working Group stressed yet again that the main cause of contemporary forms of slavery was poverty. The best way to reduce the harmful effects of contemporary forms of slavery was for developing countries to implement and exercise fully their right to development. The influence of market forces meant that well-to-do countries with money created demand and the sheer poverty in many developing countries encouraged them to meet that demand.

93. He also endorsed the assertion in paragraph 92 that poverty could not justify the persistence of contemporary forms of slavery. The dilemma facing the international community was how to alleviate or eradicate a situation which had arisen through the lack of development.

94. The issue of contemporary forms of slavery had shown how constructive and positive the work of NGOs could be, particularly in the context of deciding policy and practical measures.

95. He supported the recommendations made in the report which were highly important and in particular welcomed the specific recommendation on the removal of organs from children. The cannibalizing of children raised serious ethical and legal questions and was a subject which the Sub-Commission, as a body of experts, should pursue.

96. At its 9th meeting, on 10 August 1993, the Sub-Commission had heard a statement by the Special Rapporteur on the sale of children, child prostitution and child pornography, in which he had commented on the numerous problems caused by poverty and the deteriorating economic conditions in many developing countries and indeed parts of the developed countries. It was a situation that called for greater attention by the Sub-Commission, which should analyse in depth problems related to the sale of children, child prostitution, the appalling problems of street children, incest, and exploitation of child labour. The Special Rapporteur had talked of the international nature of commercial adoption and the sale of organs. The international community would have to make special efforts to combat those phenomena.

97. He welcomed the very existence of the Working Group on Contemporary Forms of Slavery, the Committee on the Rights of the Child and the Special Rapporteur on the sale of children, child prostitution and child pornography and said that every means possible should be used to coordinate their work. With the Convention on the Rights of the Child, substantive provisions were in place; what was needed now was the machinery to ensure their implementation.

98. In connection with the recommendation contained in Commission on Human Rights decision 1993/112 authorizing the Sub-Commission to consider the possibility of appointing a special rapporteur to update the report of Mr. Bouhdiba on child labour (E/CN.4/Sub.2/479) and to extend that study to the problem of debt bondage, he felt he should express his misgivings on that point since it would be inappropriate to link two problems which were essentially quite different.

99. With regard to agenda item 16 (b) on the prevention of discrimination and protection of women, he agreed with Mrs. Warzazi that the existing mechanisms in the United Nations system to monitor the implementations of human rights had the authority to analyse any complaints made on any form of discrimination against women. However, that should not be used as an excuse to overlook the suggestion made by other colleagues, including Mrs. Daes, that the Sub-Commission should recommend that the Commission on Human Rights should examine the possibility of appointing a special rapporteur on all problems relating to discrimination against women.

100. Mr. UL-HAKIM said that slavery was an institution almost as old as humanity itself. It existed in several forms.

101. Firstly, there was adoption which was usually harmless but had sometimes become a commercial activity in which children from developing countries were sold to prospective parents in prosperous countries. The problem lay in how to eradicate it. The trouble began when intermediaries came between parents who could not afford to maintain their children and parents who wanted to help. The intermediaries often forced unwanted adoptions. The international

community must adopt more stringent measures to stop such abhorrent activities. Most of the South Asian countries had adopted legislation to prevent the inhuman practice of commercial adoption but the problem was that those responsible for enforcing the legislation were not all as dedicated as they might be.

102. Since successful transplant operations had become common and medical science had decreed that, for instance, only one kidney was really necessary, the serious malpractice had arisen of killing poor children and taking their organs. Although such a terrible and monstrous trade was suspected, there had as yet not been a documented case of children being abducted for the purposes of organ removal. He felt very strongly that ways and means should be found to detect such occurrences. The international community must be alert to that problem and devote more attention to that particular aspect of slavery.

103. It was true that at its latest session, the Working Group on Contemporary Forms of Slavery had not been able to do its job as well as it might have done. One reason had been the late arrival or non-arrival of some members, and another the fact that documentation had been sent out to the wrong addresses or too late. That had not been the fault of the Secretariat, whose attention had necessarily been focused on the World Conference on Human Rights in Vienna.

104. Some Western countries, particularly the United Kingdom, had recommended that a new investigation on incest should be started. In Asia incest was almost unknown, but non-governmental organizations (NGOs) participating in the session had insisted that it was increasing sharply in some parts of the world and that steps should be taken to combat it.

105. Much had been said about child prostitution and child pornography. Every effort must be made to eradicate them, since, if women and children could not be treated in a deserving way, the future of mankind was bleak. The Special Rapporteur had explained how his inquiry was proceeding, and some progress was being made.

106. A substantial amount of time had been taken up by the "comfort women" issue. The question arose as to whether the Sub-Commission could consider a matter involving events that had taken place before the adoption of the Universal Declaration of Human Rights. If the Sub-Commission could go back to events of 1942 and 1943, what was to prevent it from going back to events of 1902 and 1903 in Bengal? In his view, the Sub-Commission must keep its discussion within a certain range; it could condemn but could not compensate. Perhaps the Chairman could give some guidance on that matter.

107. The CHAIRMAN said that it was beyond his competence to decide whether the Sub-Commission could consider violations committed before the adoption of the Universal Declaration of Human Rights.

108. Mr. TIAN JIN said that he agreed with those members who had recommended continuity in the membership of the Working Group on Contemporary Forms of Slavery. Also, it might be advisable to have some priority issues for discussion at every session of the Working Group.

109. At its most recent session, the Commission on the Status of Women had drafted a framework and outline of the programme of action to be discussed and adopted at the World Conference on Women to be held in Beijing in 1995. The Commission had stressed that the programme of action should be concise and should conform to certain priorities so that the implementation of key areas of the Nairobi Forward-Looking Strategy could be accelerated. The purpose was to promote the achievement of the target of equality between men and women in the next century. The Commission was also following up the preparation of country reports for the World Conference and had decided that the Conference should be more widely publicized. Careful consideration had been given to the participation of NGOs. The Secretary-General of the World Conference on Women had visited Beijing together with a group of United Nations experts. Women's organizations, other concerned NGOs and the Chinese Government were giving high priority to the World Conference, for which the Sub-Commission's discussions under agenda item 16 (b) would be very useful.

110. Mrs. PALLEY congratulated the Working Group on Contemporary Forms of Slavery on its work. The report on its eighteenth session was one of the most important documents prepared by the Sub-Commission, covering matters affecting more than three-quarters of the world's population - all children, many women, and some men. Unfortunately, the World Conference on Human Rights in Vienna had diverted much of the energy of the United Nations system and it was to be hoped that in 1994 the Working Group and the Sub-Commission would be revitalized.

111. Human rights violations, economic problems of underdevelopment and family poverty were inextricably intertwined. The Sub-Commission had to be realistic and recognize that the goal of eliminating child labour was something towards which all States must strive but which they could not attain immediately. What was needed was a long-term programme combining policies for gradually raising the age of compulsory schooling and the minimum age at which children were allowed to work as States could afford to do so and of providing food and clothing in schools. Many people were ideologically opposed to that kind of action, but it was the only way in which the problems of child labour could be attacked. The schools concerned should be vocationally oriented, which did not mean that they should not also have academic streams. It would be better to see children labouring in school than labouring in factories. Moreover, in cases where factories employed children, the owners should have to release them for schooling during part of the day. Developed countries could assist developing countries a great deal by providing generous agreed educational and assistance programmes for children.

112. She supported some but not all of the remarks made by Anti-Slavery International, as reflected in paragraph 22 of the report (E/CN.4/Sub.2/1993/30). It was absolutely right to say that States should set up national commissions on bonded labour, since the task could not be left to Governments generally or to ministries. However, she strongly disagreed with Anti-Slavery International's suggestion that loans should be stopped to projects involving bonded labour. The loan programme should be designed to phase out bonded labour, since a society could not be changed overnight.

113. Another useful suggestion made by Anti-Slavery International, in its oral statement, related to the total elimination of slavery in Mauritania. Some very constructive comments had been made on the many positive developments that had occurred in that country. What was now needed was research into the attitudes prevalent there. That, of course, would require the cooperation of the Government. She therefore hoped that the Government of Mauritania would welcome a genuine study of any residual slavery problems that might exist.

114. She agreed with most of Mr. Ul-Hakim's remarks, but she disagreed with his final comment. A few years previously she had greatly objected to a legal opinion which had been given in the Sub-Commission regarding the Canadian War Veterans, who had sought to use the 1503 procedure. It had been ruled that they could not do so because the events referred to had taken place prior to the adoption of the Charter of the United Nations. That had constituted an extraordinarily dangerous precedent. The argument put forward had been that many people were hoping that something would be done and that it was only kind to inform them that they had no legal claim. They might not have had a legal claim as far as the United Nations was concerned, but moral claims continued. The Sub-Commission was right to discuss moral claims deriving from the past. If Mr. Ul-Hakim's approach was correct, much of the Sub-Commission's debate on indigenous peoples and their hardships would be ruled out of order. The Sub-Commission must be able to discuss history.

115. In the matter of the victims of Japanese war crimes, both the forced labourers and the "comfort women", she hoped that the Japanese Government would establish a very well-funded institution to deal with the problem generously, it being made clear at the same time that there could be no legal action, since plaintiffs would have very great difficulty in proving their case and might lose on technical grounds. Moreover, there should be no possibility of huge sums of money being paid out to lawyers, whose remuneration should be strictly limited.

116. Mr. CHAKRAVARTI (Observer for India), making a statement equivalent to a right of reply, said that he wished to clarify certain misconceptions on child labour which could be engendered by the statement made by a non-governmental organization under agenda item 15.

117. Child labour was a problem which was rooted in poverty. His Government, however, was determined to overcome it, bearing in mind the socio-economic conditions prevailing in India. As recently as 17 May 1993, the Minister of State for Labour had reiterated the Government's commitment to work for the progressive elimination of child labour. His Government's approach was fully consistent with the international approach to the subject, taking into account the need to pursue policies in a graduated and progressive manner and to distinguish between the various types of child labour involved.

118. The Child Labour (Prohibition and Regulation) Act of 1986, contrary to what the NGO had stated, did regulate the employment of children in certain specified processes and occupations. It was also incorrect to state that the Act legalized the employment of children without identifying hazardous activities. His Government discouraged the employment of children for hazardous activities, even in family-based work. A Child Labour Advisory Committee had already been established in pursuance of the Act to advise the

Government regarding employment in areas where child labour needed to be further prohibited. Several additional processes had been prohibited as a result of the Advisory Committee's recommendations.

119. While enforcing the Child Labour Act, his Government was, naturally, required to function within the constitutional framework of respecting the independence of the judiciary. To take a recent example, a special drive had been conducted in Uttar Pradesh since September 1992, with over 1,550 inspections by special teams. The Government had vigorously pursued with the high courts concerned cases where it had felt that convictions had resulted in fines below the stipulated minimum of 10,000 rupees. Moreover, in order to make use of child labour less attractive economically, the Government of Uttar Pradesh had recently stipulated that minimum wages for adolescents and children would be 99 per cent of those fixed for adults. The Government's efforts with regard to the carpet industry were so manifest that most NGOs recognized them.

120. His Government's approach was multidisciplinary, project-oriented and laid special emphasis on the involvement of voluntary organizations. The aim was to give informal education, vocational training, supplementary nutrition and health care through special schools. Grants-in-aid were given to NGOs for undertaking action-oriented projects in precisely the sectors mentioned by the NGO in the Sub-Commission.

121. Furthermore, India was actively participating in the International Programme for the Elimination of Child Labour through the ILO Technical Cooperation Programme. The areas involved were the enforcement of legislation and counselling for child labour; children in the small-scale and the large-scale industrial sectors and house work; children in the services sectors; children in agriculture; and children in the informal sector. The will was certainly there. Given time and, more importantly, resources, his Government was confident that as India's economic strength increased, child labour would be progressively eliminated.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (E/CN.4/Sub.2/1993/12-14; E/CN.4/Sub.2/1993/NGO/3; E/CN.4/Sub.2/1993/NGO/5)

122. Mr. PHEKO (Observer, Pan Africanist Congress of Azania) said that South Africa was a classic example of the mutilation of the history of an African country and the manipulation of international law by a colonial power, which had, for its own national interests, smuggled South Africa into the League of Nations and later into the United Nations. South Africa had been deliberately created to perpetuate colonialism through the mechanics of racism, ruthless economic exploitation and gross violations of human rights. Apartheid had not begun in 1948 but was an ugly baby of British colonialism. The apologists of the unforgivable erroneous view that South Africa was a "sovereign State" must tell the world why Africans in Azania had fought against colonial aggression and alien rule through national wars of resistance

under heroic kings and generals and in recent years through the national Azanian People's Liberation Army. They must also explain why Azania's cities and rivers had had indigenous African names before colonization.

123. Today, certain countries often objected to the discussion of South Africa by United Nations agencies, committees or commissions under colonialism. Recently in New York the representative of the Russian Federation had requested the Special Committee on Decolonization to suspend discussions on South Africa. The Pan Africanist Congress of Azania (PAC) rejected that parochial approach, since the problem was fundamentally colonial.

124. In February 1992 the Commission on Human Rights had omitted to proceed with a resolution on the detention and torture of children in South Africa, because of the usual euphoria generated by the regime, which suggested that all was now rosy in South Africa. In 1992, however, 4,000 African children had been detained by the South African regime, and many of them were still in detention. In 1992 over 200 African detainees had died in detention, and between January and June 1993 the same fate had befallen 20 African detainees. Recently two PAC supporters had been detained and one had died in jail. The South African police had claimed that he had committed suicide, although a post-mortem had indicated that his wounds had not been self-inflicted. In June 1993 there had been 28 detentions without trial, including detentions of several PAC members, and 485 political arrests.

125. The South African regime had never met all the preconditions stipulated in the United Nations Declaration of 14 December 1989, which required, inter alia, that the regime should create a climate conducive to genuine negotiations by unconditionally releasing all political prisoners and by abolishing the Internal Security Act. However, the Internal Security Act was still intact and several persons, including PAC members, were still being detained under it. Moreover, in recent months the South African regime had imposed ridiculously severe bail terms on political prisoners, especially members of PAC. On 2 August 1993, 20 members of PAC had been arrested, bringing the number of arrested PAC members alone to 1,500. Over 300 political prisoners had never been released in accordance with the United Nations Declaration. Instead they had been sentenced to death and had been held in death cells. The political prisoners that had been released had included dangerous criminals such as Barend Strydom.

126. The De Klerk regime was not negotiating in good faith, and Africans were negotiating at gunpoint. PAC had long advocated that negotiations in South Africa should take place under a neutral convenor and preferably at a neutral venue. In the current situation the De Klerk regime had bugged PAC'S telephones, raided its offices, removed documents, computers, membership lists and PAC position papers relating to negotiations and election strategies. That was tantamount to rigging elections before they started. The invasion of the negotiating forum by heavily armed right-wing elements on 25 June 1993, in which many negotiators, some of them PAC members, had been injured, showed the importance of having a neutral venue.

127. When DAC had asked for the principle of neutrality to be built into the negotiations, it had not been trying to be difficult. Negotiations at a neutral venue guaranteed the safety and security of negotiators and

non-interference with their private documents and sensitive information in their possession. Moreover the principle of neutrality in negotiations had become universal, as instanced in the negotiations concerning the independence of Zimbabwe and Namibia and the mediation in the case of Haiti.

128. The onslaught on PAC was a dangerous attempt to rig the elections even before they began. PAC had emerged as the most powerful electoral force, causing panic in the regime's camp. Mr. De Klerk's party was losing support among white voters. The right wing therefore had to be appeased by the arrest of PAC leaders and members. In fact, information had been leaked that the South African regime planned to arrest and assassinate PAC leaders before the elections. A number of them had already been arrested and some were being tortured and bribed to spy for the regime.

129. PAC had agreed that the date for the election of a democratic constituent assembly to draw up a constitution leading to majority rule must be fixed. It had no mandate to negotiate power-sharing or "interim government" controlled by the regime. According to a survey, 57 per cent of Africans were against the so-called "interim government".

130. The regime's objective was to retain the essentials of white power in terms of control of the economy and domination of the professions, higher skills and the civil service. While willing to make room for Africans to enter the political domain, the regime wanted to make sure that any power that the African majority acquired would not tamper with the essentials of white control.

131. The United Nations was the last hope for the people of Azania and of Palestine. There could be no peace without justice and genuine freedom for the oppressed. The victims of apartheid and colonialism in South Africa had great respect for the Sub-Commission and confidence in it. They paid great attention to its decisions and resolutions. However, if they perceived that apartheid was being reformed and not eradicated, they would resort to their own measures against the South African regime. No oppressor ever relinquished power of his own accord, and the South African regime was no exception.

The meeting rose at 1.10 p.m.